

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

THE SENATE OF THE COMMONWEALTH  
OF PUERTO RICO,

Civil No. 05-2082 (JAF)

Plaintiff,

V.

HON. ANIBAL ACEVEDO VILA,  
et al.,

## Defendants.

O R D E R

I.

## Background

On October 11, 2005, Plaintiff, the Senate of the Commonwealth of Puerto Rico ("Plaintiff" or "the Senate"), filed the present action against Defendants, Aníbal Acevedo Vilá ("the Governor"), Juan Carlos Méndez, and Ileana Fas Pacheco in their official capacities ("Defendants"), seeking injunctive relief under the Federal Relations Act ("FRA"), 48 U.S.C. § 821 ("Section 37") (2003). Docket Document No. 1. On October 19 and 20, 2005, we issued an opinion and order dismissing the case, holding that the controversy between the parties did not raise a federal question. Docket Document Nos. 19, 20.

On November 3, 2005, Defendants filed a motion seeking attorneys' fees, pursuant to Rule 54 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1927. Docket Document No. 24. Plaintiff

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1 filed a response in opposition to Defendants' motion on November 24,  
2 2005. Docket Document No. 29.

3 **II.**

4 **Legal Analysis**

5 \_\_\_\_\_In the United States, the general rule is that, in the absence  
6 of legislation providing otherwise, litigants must pay their own  
7 attorney's fees. Christiansburg Garment Co. v. EEOC, 434 U.S. 412,  
8 415 (1978). In order for attorney's fees to be awarded, a prevailing  
9 defendant must "establish that the plaintiffs' suit was totally  
10 unfounded, frivolous, or otherwise unreasonable." Casa Marie Hogar  
11 Geriatrico, Inc. v. Rivera-Santos, 38 F.3d 615, 618 (1st Cir. 1994).

12 District courts have an inherent power to grant attorney's fees  
13 to a prevailing party when the losing party has "acted in bad faith,  
14 vexatiously, wantonly, or for oppressive reasons." Dubois v. U.S.  
15 Dept. of Agric., 270 F.3d 80 (quoting Chambers v. NASCO, Inc., 501  
16 U.S. 32, 33 (1991)). This power should be used "sparingly and  
17 reserved for egregious circumstances," and must be "used with great  
18 circumspection and restraint, employed only in compelling  
19 situations." Id. (internal citations omitted).

20 Under 28 U.S.C. § 1927, district courts may also award  
21 attorney's fees when an attorney "unreasonably and vexatiously"  
22 multiplies proceedings. 28 U.S.C. § 1927. In the First Circuit,  
23 behavior is vexatious when it is "harassing or annoying." Cruz v.  
24 Savage, 896 F.2d, 626, 632 (1st Cir. 1990).

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1       In the case at hand, Defendants seek attorneys' fees and  
2 sanctions, alleging that Plaintiff raised frivolous and vexatious  
3 claims under the FRA that have repeatedly been resolved by a "myriad  
4 of courts all across the federal judiciary." Docket Document No. 24.  
5 The crux of Plaintiff's case centered on whether a dispute between  
6 the Senate and the Governor over the 2005 budget gave rise to a  
7 federal question under § 37 of the FRA.

8           In making a determination regarding whether a plaintiff's suit  
9 is unfounded, frivolous or otherwise unreasonable, a court must  
10 "resist the understandable temptation to engage in *post hoc* reasoning  
11 by concluding that, because a plaintiff did not ultimately prevail,  
12 his action must have been unreasonable or without foundation."  
13 Christiansburg Garment Co., 434 U.S. at 421-22. Although it is clear  
14 that § 37 of the FRA did not federalize local Commonwealth  
15 separation-of-powers conflicts, Plaintiff's complaint raised a novel  
16 legal claim that had heretofore not been analyzed by a federal court.  
17 Although Defendants argue that this court's prompt handling of the  
18 matter reflects the frivolous nature of Plaintiff's claim, the  
19 expedited schedule utilized to resolve this matter was, in fact,  
20 driven by the extreme politically and time-sensitive nature of the  
21 controversy.

22           We are not convinced that Plaintiff's complaint was so  
23 unreasonable or without foundation as to rise to the level of  
24 egregiousness required for us to impose sanctions. Nor do we find

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2 Plaintiff's attorneys' actions to be sufficiently annoying or  
3 harassing to award attorney's fees under 28 U.S.C. § 1927.

4 In accordance with the foregoing, we **DENY** Defendants' request  
5 for attorney's fees, with each party to bear its own costs and fees.

6 **IT IS SO ORDERED.**

7 San Juan, Puerto Rico, this 7<sup>th</sup> day of December, 2005.  
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S/José Antonio Fusté  
JOSE ANTONIO FUSTE  
Chief U. S. District Judge